

HOUSE BILL 801

E2

(1lr2654)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Valentino-Smith, Alston, Healey, Parrott, Simmons, V. Turner, Vallario, Washington, and Wilson**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Victims’ Rights – Enforcement**

3 FOR the purpose of ~~expanding the applicability of certain appeal rights from a victim~~
4 ~~of a violent crime to a victim of a crime; authorizing a certain victim to appeal to~~
5 ~~the Court of Special Appeals from a certain final order; providing that the filing~~
6 ~~of a certain appeal or application for leave to appeal does not stay certain other~~
7 ~~proceedings unless the court finds that the accused’s rights to a speedy trial or~~
8 ~~adjudication will not be violated;~~ requiring a certain court to ensure that a
9 certain victim is afforded the rights provided by law in a certain court
10 proceeding; authorizing a certain victim to file a certain motion requesting relief
11 within a certain time period; providing that, ~~if a~~ if the court finds that a victim’s
12 right to restitution under a certain provision of law was not considered or was
13 improperly denied, the court may ~~grant the victim relief provided the remedy~~
14 ~~does not violate a defendant’s or child respondent’s certain constitutional right;~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 ~~prohibiting a court from providing a remedy that modifies a certain sentence or~~
 2 ~~commitment unless the victim requests relief from a violation of the victim's~~
 3 ~~right within a certain number of days of the alleged violation; providing for the~~
 4 ~~application of this Act; enter a judgment of restitution; and generally relating to~~
 5 victims' rights.

6 BY repealing and reenacting, with amendments,
 7 Article – Criminal Procedure
 8 Section 11–103
 9 Annotated Code of Maryland
 10 (2008 Replacement Volume and 2010 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Criminal Procedure**

14 11–103.

15 ~~(a) (1) In this section, ["violent crime"] ~~“CRIME”~~ means:~~

16 (a) (1) In this section, “violent crime” means:

17 (i) a crime ~~of violence~~; ~~OR~~

18 (ii) a delinquent act that would be a crime ~~of violence~~ if
 19 committed by an adult~~;~~ or

20 (iii) except as provided in paragraph (2) of this subsection, a
 21 crime or delinquent act involving, causing, or resulting in death or serious bodily
 22 injury~~.~~

23 ~~(2) ["Violent crime"] ~~“CRIME”~~ does~~

24 (2) “Violent crime” does not include an offense under the Maryland
 25 Vehicle Law or under Title 8, Subtitle 7 of the Natural Resources Article unless the
 26 offense is punishable by imprisonment.

27 (b) Although not a party to a criminal or juvenile proceeding, a victim of a
 28 ~~violent~~ crime for which the defendant or child respondent is charged may file an
 29 application for leave to appeal to the Court of Special Appeals from an interlocutory
 30 ~~ORDER or APPEAL TO THE COURT OF SPECIAL APPEALS FROM A~~ final order that
 31 denies or fails to consider a right secured to the victim by § 4–202 of this article, §
 32 11–102, § 11–104, § 11–302, § 11–402, § 11–403, § 11–404, or § 11–603 of this title, §
 33 3–8A–06, § 3–8A–13, or § 3–8A–19 of the Courts Article, or § 6–112 of the Correctional
 34 Services Article.

1 (c) The filing of an ~~APPEAL OR~~ application for leave to appeal under this
2 section does not stay other proceedings in a criminal or juvenile case unless:

3 ~~(1) all parties consent; OR~~

4 ~~(2) THE COURT FINDS THAT THE ACCUSED'S RIGHTS TO A SPEEDY~~
5 ~~TRIAL OR ADJUDICATION WILL NOT BE VIOLATED.~~

6 (d) (1) For purposes of this section, a victim's representative, including
7 the victim's spouse or surviving spouse, parent or legal guardian, child, or sibling, may
8 represent a victim of a ~~[violent]~~ crime who dies or is disabled.

9 (2) If there is a dispute over who shall be the victim's representative,
10 the court shall designate the victim's representative.

11 **(E) (1) IN ANY COURT PROCEEDING INVOLVING A CRIME AGAINST A**
12 **VICTIM, THE COURT SHALL ENSURE THAT THE VICTIM IS IN FACT AFFORDED**
13 **THE RIGHTS PROVIDED TO VICTIMS BY LAW.**

14 ~~(2) IF A COURT FINDS THAT A VICTIM'S RIGHT WAS NOT~~
15 ~~CONSIDERED OR WAS DENIED, THE COURT MAY GRANT THE VICTIM RELIEF~~
16 ~~PROVIDED THE REMEDY DOES NOT VIOLATE A DEFENDANT'S OR CHILD~~
17 ~~RESPONDENT'S CONSTITUTIONAL RIGHT TO BE FREE FROM DOUBLE JEOPARDY.~~

18 ~~(3) A COURT MAY NOT PROVIDE A REMEDY THAT MODIFIES A~~
19 ~~SENTENCE OF INCARCERATION OF A DEFENDANT OR A COMMITMENT OF A~~
20 ~~CHILD RESPONDENT UNLESS THE VICTIM REQUESTS RELIEF FROM A VIOLATION~~
21 ~~OF THE VICTIM'S RIGHT WITHIN 30 DAYS OF THE ALLEGED VIOLATION.~~

22 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only~~
23 ~~to any appeal pending or filed on or after the effective date of this Act.~~

24 **(I) A VICTIM WHO ALLEGES THAT THE VICTIM'S RIGHT TO**
25 **RESTITUTION UNDER § 11-603 OF THIS TITLE WAS NOT CONSIDERED OR WAS**
26 **IMPROPERLY DENIED MAY FILE A MOTION REQUESTING RELIEF WITHIN 30 DAYS**
27 **OF THE ALLEGED VIOLATION DENIAL OR ALLEGED FAILURE TO CONSIDER.**

28 **(II) IF THE COURT FINDS THAT THE VICTIM'S RIGHT TO**
29 **RESTITUTION UNDER § 11-603 OF THIS TITLE WAS NOT CONSIDERED OR WAS**
30 **IMPROPERLY DENIED, THE COURT MAY ENTER A JUDGMENT OF RESTITUTION.**

31 SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
32 effect June 1, 2011.